

**ORAL ARGUMENT WAIVED**

CAUSE NO. PD-0941-17

IN THE

COURT OF CRIMINAL APPEALS

OF TEXAS

FILED  
COURT OF CRIMINAL APPEALS  
6/27/2018  
DEANA WILLIAMSON, CLERK

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CHRISTIAN VERNON SIMS, Appellant-Petitioner

V.

THE STATE OF TEXAS, Appellee-Respondent

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ON DISCRETIONARY REVIEW OF CAUSE NO. 06-16-00198-CR;  
SIXTH JUDICIAL DISTRICT COURT OF APPEALS AT TEXARKANA;  
CAUSE NO. 26338; SIXTH DISTRICT COURT OF LAMAR COUNTY

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**APPELLEE'S (STATE'S) MOTION FOR  
LEAVE TO FILE SUPPLEMENTAL  
LETTER OR BRIEF**

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**ATTORNEYS FOR THE STATE OF TEXAS**

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## **APPELLEE’S (STATE’S) MOTION FOR LEAVE TO FILE SUPPLEMENTAL LETTER OR BRIEF**

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TO THE HONORABLE COURT OF CRIMINAL APPEALS OF TEXAS:

COMES NOW, the State of Texas, by and through the elected County and District Attorney of Lamar County, Gary D. Young, and Jeffrey W. Shell, an *attorney pro tem*, (the State) respectfully submits this Motion for Leave to File Supplemental Brief under Rules 70.4, *et. seq.* and 10.5(b) of the Texas Rules of Appellate Procedure. Pursuant to these rules and in the

interest of justice, the State moves this Court for leave to file supplemental brief or letter in light of *Carpenter v. United States*, No. 16-402, 2018 WL 3073916, 2018 U.S. LEXIS 3844 (June 22, 2018).

I.

**PROCEDURAL BACKGROUND**

On April 3, 2018, Christian Vernon Sims (Sims) filed his brief in the above-styled and numbered cause. The State filed its brief on May 3, 2018. On or about June 13<sup>th</sup>, this Court set the above-styled and numbered cause for submission without oral argument on Wednesday, June 27, 2018.

On June 22<sup>nd</sup>, the United States Supreme Court issued its opinion in *Carpenter v. United States*, No. 16-402, 2018 WL 3073916, 2018 U.S. LEXIS 3844 (June 22, 2018). At the time of original briefing, neither party had the benefit of the *Carpenter* opinion.

II.

**BASIS FOR THIS MOTION: THIS COURT SHOULD ALLOW  
ADDITIONAL BRIEFING IN THE FORM OF A  
SUPPLEMENTAL BRIEF OR A LETTER.**

Rule 70.4 of the Texas Rules of Appellate Procedure provided in pertinent part that “upon motion by a party the Court may permit the filing of additional briefs.” *See* Tex. R. App. P. 70.4. Under Rule 70.4, the State files this motion for leave prior to the submission date of June 27<sup>th</sup> and asks

this Court to postpone the June 27<sup>th</sup> submission and to grant the State leave to file a supplemental brief or letter within a reasonable and specified time.

WHEREFORE PREMISES CONSIDERED, the State of Texas prays that upon final submission of this motion to this Court's motion docket, this Court grant the relief requested herein; and for such other and further relief, both at law and in equity, to which it may be justly and legally entitled.

Respectfully submitted,

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**ATTORNEYS FOR STATE OF TEXAS**

## **CERTIFICATE OF SERVICE**

This is to certify that in accordance with Tex. R. App. P. 9.5, a true copy of the State's Motion for Leave to File Supplemental Letter or Brief" has been served on the 25<sup>th</sup> day of June, 2018 upon the following:

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